IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 10TH NOVEMBER 2006 / 19TH KARTHIKA 1928

W.A.No.156 of 2003(A)

AGAINST THE JUDGEMENT IN O.P.34031/2002 DATED 15/11/2002
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APPELLANT: 2ND RESPONDENT IN O.P.:-

M. RAYANKUTTY, S/O. HASSANKUTTY,
MANJAKANDAN HOUSE, ERUKUNNU,
MALAPPURAM.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL.

RESPONDENTS: PETITIONER & RESPONDENTS 1,3 & 4 IN O.P.:-
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1. P.V. JACOB, PURIYOTTE HOUSE,
   NELLIKKUTH, P.O. MANJERI,
   MALAPPURAM.

2. THE SECRETARY, R.T.A. MALAPPURAM.

3. KODUVANDY ABDUL HAMEED,
   KODAVANDY HOUSE, MANJERI.

4. P. HUSSAIN, ELAMALASSERY HOUSE,
   KARIVAMPOYIL P.O., KODUVALLY,
   KOZHIKODE.

BY ADV. SRI.PRASAD CHANDRAN
BY ADV.SRI.K.M.SATHYANATHA MENON
R2 BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 10/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K.Bali,C.J. & S.Siri Jagan,J.

W.A.No.156 of 2003-A

Dated, this the 10th day of November, 2006

JUDGMENT

V.K.Bali,C.J. (Oral)

This appeal is directed against the order dated 15.11.2002 passed by the learned Single Judge in O.P.No.34031 of 2002. The petitioner, who has been arrayed as 1st respondent in the present appeal is a stage carriage operator, operating on the route Kallikavu - Kadampuzha. He made a complaint that there was direct clash between the timings of the petitioner and that of respondents 2, 3 and 4 in the writ petition, operating on the routes Tirur - Manjeri, Karappuram - Manjeri and Karulai - Manjeri. He, thus, filed objection, Exhibit P1, before the Secretary, Regional Transport Authority, Malappuram (the 1st respondent in the Original Petition) requesting therein to settle the timings of stage carriage bearing Nos.KL-10/P 618, KL-9/B 5389 and KL-10/C 9180. The learned Single Judge on the statement made by the learned Government Pleader that Exhibit P1 would be

taken up by the 1st respondent and after hearing all the affected parties appropriate orders would be passed, closed the petition.

2. Learned counsel representing the appellant, on the basis of the Division Bench decision contends that the only remedy available to the petitioner, 1st respondent herein, was to file a revision in terms of Section 90 of the Motor Vehicles Act, 1988 before the State Transport Appellate Tribunal. For this contention, reliance has been placed on the Division Bench decision of this Court in **Krishnankutty** v. **John** [1992 (2) KLT 883]. It could not be disputed during the course of argument that the matter is covered in favour of the appellant and against the petitioner. That being so, this appeal is allowed and the order dated 15th November, 2002 passed by the learned Single Judge is set aside. C.M.P.454 of 2003 does not survive.

Sd/-
V.K.Bali
Chief Justice

Sd/-
S.Siri Jagan
Judge

vku/-

- true copy -

P.A.to Judge.